

### SUMMARY

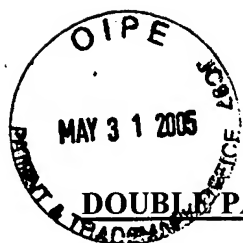
The above Amendment and following Remarks are responsive to the points raised in the August 10, 2004 Office Action. In the Office Action, claims 33 and 34 were rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. Claims 22, 24-29, 31-35, 37, and 38 were rejected under the nonstatutory double patenting doctrine and claims 23, 30, 33-34, and 36 were rejected under the doctrine of obvious-type double patenting as being unpatentable over Plummer et al. (U.S. Patent No. 6,718,704) in view of Becken et al. (U.S. Patent No. 6,155,010). Each claim has been provided with the proper status identification, in response to the Notice of Non-Compliant Amendment. Accordingly, Applicants respectfully assert that the claims are in condition for allowance.

Upon entry of this Amendment, claims 22-40 will be pending in this application. Entry and consideration of this Amendment are respectfully requested.

### REMARKS

#### REJECTIONS UNDER 35 U.S.C. § 112:

Claims 33 and 34 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. Specifically, the Examiner noted that a duplicate set of claims numbered 33 and 34 had been included. Accordingly, Applicants have provided a clean set of claims that does not include a duplicate set of claims 33 and 34. Applicants believe that this clean set of claims overcomes the 112, Second Paragraph rejections and request removal thereof.



The Examiner has imposed a non-statutory double patenting rejection of Claims 22, 24-29, 31-35, 37, and 38 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 3, 5, 6, 11, and 19 of U.S. Patent No. 6,718,704. The examiner also rejected Claims 23, 30, 33-34, and 36 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of U.S. Patent No. 6,718,704 in view of Becken et al. (U.S. Patent No. 6,155,010).

The present application and the identified patent are commonly owned. A Terminal Disclaimer fully complying with the requirements of 37 C.F.R. 1.321(c) accompanies this Amendment to obviate the double-patenting rejection. Accordingly, Applicants request removal of the double-patenting rejections.

**RESPONSE TO NOTICE OF NONCOMPLIANT AMENDMENT:**

Nearly six months after the filing of the amendment dated November 15, 2004, the Examiner in the present application issued a Notice of Non-Compliant Amendment Under 37 C.F.R. 1.121. The Examiner noted that claims 39 and 40 should have been indicated parenthetically as “(New)” instead of “(Previously Presented).” While the Applicants agree that these claims are new and were improperly indicated previously presented in the November 15, 2004 Amendment, Applicants strongly disagree with the Examiner’s handling of the present application. The parenthetical indication of “previously presented” instead of “new” is quite minor in nature and does not rise to a level of non-compliance. Further, even if such indication rose to the level of non-compliance, the approximately six-month delay is grossly inappropriate, especially since the present amendment brings the application in line for allowance.

Accordingly, Applicants request patent term extension to cover the entire period of delay from mailing of the Amendment dated November 15, 2004 to the Notice of Non-Compliant Amendment Under 37 C.F.R. 1.121 dated May 3, 2005. This period of time was unnecessarily spent by the USPTO and the patent term of any patent issuing from the present application should be extended.

### **CONCLUSION**

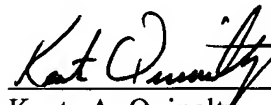
Since this Amendment places the claims in condition for allowance, such action is respectfully requested. Claims 22-40 are allowable and an early notice to such effect is earnestly solicited. Should the Examiner have questions or comments regarding the foregoing Amendment, he is invited and urged to telephone the undersigned attorney.

### **AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees that may be required for the timely consideration of this Amendment under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account No. 09-0528.

Respectfully submitted,

5/26/05  
Date

  
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